

HOUSE BILL REPORT

HB 1527

As Reported by House Committee On:
State Government & Tribal Affairs

Title: An act relating to administering elections by mail.

Brief Description: Modifying absentee ballot and related election provisions.

Sponsors: Representatives Appleton, Armstrong, Kenney, Moeller, Ormsby and Seaquist; by request of Secretary of State.

Brief History:

Committee Activity:

State Government & Tribal Affairs: 1/16/08, 1/23/08 [DPS].

Brief Summary of Substitute Bill

- Allows a mail voter to vote a regular ballot at a poll site upon confirmation that the voter has not yet voted.
- Removes the provision that original voting documents must be returned in order for overseas and service voter ballots returned electronically to be counted.
- Requires that mismatched signatures be cured by providing a photocopy of identification or by providing the attestation of two witnesses with the return of the affidavit.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Hunt, Chair; Appleton, Vice Chair; Chandler, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Kretz, Lias, Miloscia and Ormsby.

Staff: Marsha Reilly (786-7135).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Processing Mail Ballots

Opening and processing of mail ballots may begin upon receipt of the ballot. Before opening the ballot, election personnel must verify that the voter's signature on the return envelope is the same as the signature of the voter in the registration files of the county. Once the signature on the ballot envelope has been verified, the voter is credited with voting and the outer ballot envelope is removed. Ballots that are tabulated on electronic vote tallying systems may be removed from the inner envelopes and prepared for tabulation. After opening the envelopes, all ballots are placed in secure storage until after 8:00 p.m. of the day of the primary or election.

Provisional Ballots

The Help America Vote Act (HAVA) requires that under certain circumstances, voters may be issued and vote a provisional ballot. Provisional ballots may be counted only if election officials can confirm that the voter is registered, is entitled to vote, and has not already voted. The HAVA also requires that every polling site have disability access voting equipment.

In 2005 legislation was enacted allowing counties to conduct elections entirely by mail. Counties that adopt mail voting must also make available disability access voting equipment. A voter who has requested an absentee ballot but chooses to vote at a polling site may be issued and may vote a provisional ballot. The provisional ballot may only be counted if election officials confirm that the absentee ballot was not returned. Most disability access voting equipment does not allow for provisional voting.

Overseas and Service Voters

Federal law requires that ballots be sent to overseas and service voters. The ballots must be postmarked no later than election day and must reach the county auditor before the results are certified in order for the votes to count. An overseas or service voter may fax a voted ballot and the accompanying envelope if the voter agrees to waive secrecy. However, the faxed ballot may only be counted if the original voting documents are received before certification of the election.

Verification of Mail Ballot Signatures

The county auditor must notify a voter by first-class mail in the event that the voter fails to sign the outside envelope of the absentee or provisional ballot or if the voter's signature does not match the signature on file in the voter's registration file. To correct a missing signature, the voter must: (1) appear in person and sign the envelope, or (2) sign and return a copy of the envelope provided by the auditor.

If the signature on the ballot envelope does not match the signature on file, the voter must: (1) appear in person and sign a new registration form, or (2) return a signed affidavit provided by the county auditor. The voter has the option to enclose with the affidavit a photocopy of a valid government or tribal issued identification document that includes the voter's current signature.

If the signature on the copy of the affidavit does not match the signature on file or the signature on the copy of the identification document, the voter is required to appear in person

and sign a new voter registration form before certification of the election in order for the ballot to be counted.

Summary of Substitute Bill:

Processing Mail Ballots

The time designation of 8:00 p.m. on election day is removed for purposes of storing absentee ballots.

Provisional Ballots

An absentee or mail voter who requests to vote at a poll site may vote a regular ballot if the election worker can confirm that the voter has not already returned a ballot. If the election worker can confirm that the absentee or mail ballot has not been returned, the voter must immediately be credited with voting. Confirmation is made by accessing the county voter registration system by electronic, telephonic, or other means. If it is confirmed that the voter has not already returned a ballot, the voter must immediately be credited with voting.

Overseas and Service Voters

An overseas or service voter may return a voted ballot and the accompanying signed envelope electronically. The provision requiring the original ballot and signed envelope to be returned to the county auditor before certification is removed.

Verification of Mail Ballot Signatures

The same provisions for correcting a missing signature are applied to include persons who sign the oath with a mark and fail to have two witnesses attest to the signature.

Clarification is made that when a voter cures a mismatched signature by appearing in person and signing a new registration record, the new registration form becomes the official record for the current and future elections.

Provisions for curing a mismatched signature by signing and returning an affidavit are as follows:

- The voter must provide a photocopy of the allowed identification documents. In order for the vote to be counted, the signature on the affidavit, the ballot envelope, and the identification must match.
- The voter may sign a copy of the affidavit in front of two witnesses who are registered voters who can attest to the signature. The signature on the affidavit must match the signature on the ballot envelope.

Substitute Bill Compared to Original Bill:

The substitute bill clarifies that a voter issued an absentee or mail ballot may vote a regular ballot at a poll site as long as it can be confirmed that the voter has not already returned a ballot. Confirmation is made by accessing the county voter registration system by electronic, telephonic, or other means. If it is confirmed that the voter has not already returned a ballot,

the voter must immediately be credited with voting. The provisions of the original bill relating to a comparison of the vote tallying system to a manual count are removed.

Appropriation: None.

Fiscal Note: Available from 2007.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed, except section 9 which reinstates prior law related to the expiration of the instant runoff voting pilot project after a scheduled expiration and takes effect July 1, 2013.

Staff Summary of Public Testimony:

(In support) The Secretary of State supports the bill. Section 7 of the bill conflicts with another house bill passed out of committee this session and should be stricken. Under section 3 of the bill, it is mandatory that if it has been determined that a voter has not returned a ballot and is allowed to vote a regular ballot, then that voter must be immediately credited with voting.

(With concerns) Under section 3 of the bill, it is mandatory that if it has been determined that a voter has not returned a ballot and is allowed to vote a regular ballot, then that voter must be immediately credited with voting.

Persons Testifying: (In support) Representative Appleton, prime sponsor; and Shane Hamlin, Office of the Secretary of State.

(With concerns) David Lord, Washington Disability Right.

Persons Signed In To Testify But Not Testifying: None.